

VIRGINIA ROANOKE RIVER BASIN ADVISORY COMMITTEE MEETING MINUTES
Library of Virginia, Richmond
January 24, 2007

Attendance: VRRBAC members Reed Charlton, Walter Coles, Robert Conner, Dr. Rupert Cutler, John Feild, Watt Foster, Haywood Hamlet, John Lindsey, Curry Martin, Mike McEvoy and Charles Poindexter; State Agencies: Deputy Secretary of Agriculture and Forestry Bill Dickinson; DEQ: Greg Anderson; DCR: Moira Croghan and Dean Gall; VDACS: Kevin Schmidt; VDH: Jim Bowles

Call to Order:

Chairman Poindexter called the meeting to order.

Welcome and Recognition of Members and Visitors:

Chairman Poindexter welcomed everyone and recognized members and guests. Others not listed above that were present included Michael Chandler, Professor Emeritus of Virginia Tech and President, Chandler Planning, Jerry Lovelace, Halifax Co., and Jackie Lindsey, Citizen.

October 18, 2006 Meeting Minutes:

These minutes were approved with a minor correction.

Kevin Schmidt, Coordinator, Office of Farmland Preservation, Virginia Department of Agriculture and Consumer Services; “Preserving Working Farm and Forest Land in Virginia”

- The question was posed by Kevin, “What are the challenges facing working lands”? Farmlands and farmers are increasingly getting older. The agriculture sector average age is roughly 56 years for a farm operator right now. The concern is as farmers get older and look to get out of agriculture while looking to the next generation, a lot of them have their assets tied up in that farming operation and in the land itself. Economists from Virginia Tech project that approximately 70% of farmland and a significant amount of farm businesses will be transitioned over the next 15 years. Again that number is a real concern for a lot of farmers as their retirement is their land and business. So there is a concern that the next 15 years there may be a significant shift in agricultural assets across Virginia and across the country. There is also very strong competition for farm and forest land. These numbers are from the national resources inventory which USDA puts out roughly every 5 years or so. We are waiting for the new one to come out, but these are data between 1992 and 1997; more than 23,000 acres of agricultural land per year lost to development and about 44,600 acres of forest land lost during that 5 year period, that’s about 68,000 acres per year during that 5 year period. I think that this is an important point as well that increasingly when you have this conversion of farm and forest land you have a public now that is much more divorced from production agriculture farm and forestry operations than you did before. So you have new residents, new neighbors that don’t quite understand or they may appreciate the site of the cornfield but not quite enjoy the sights and sounds of production agriculture. So these are increasing pressures that farms are facing.
- **Question: Read Charlton asked “Are those figures for Virginia? That’s for Virginia.**
- **Question: Charles Poindexter asked I know these figures are old and you stated you have nothing more recent, but do you think these numbers would have been lower in the last 5 years?** I don’t think they would be any lower. From what I understand the national resource inventory database, they do have national numbers out, available in a more recent report, but they don’t yet have State reliable data. The national numbers from 1992 to 1997 to my recollection are about 1.2 million acres of farmland lost per year across the country. That does not include forest land just farm land and those numbers for the next 5 year period are about 1.1 million acres as well,

is what looks like is lost nationally. So I'd say it seems to be at least for the national level holding relatively consistent. We are hoping very soon to have the state level data available for every state.

- Why save farm and forest land? There are numerous arguments and I think a really important one is that it is the number one industry in Virginia in the last 400 years. I think increasingly there is awareness among environmental and conservation groups that agricultural is not the adversary. In fact, with good techniques and good practices, farming and forestry is really desired land use, in terms of water quality and habitat issues. There is a growing recognition of the important role for environmental reasons that agriculture and forest land play. Farm and forest lands require little public services. The American Farm Land Trust is pretty well known for what they call their cost of community service studies and there are about 125 studies that either AFT did or either AFT was aware of. Generally what these do is they look at land uses at the local level and the cost associated with servicing those land uses in terms of roads, police, fire, sewage and water. Then they try to calculate what was generated back from taxes from those different land uses. In a nutshell what they basically have found is that agriculture or open space land requires less actual services than those land uses that generate taxes. They have cute sayings like cows don't go to school and corn doesn't call the cops. Basically what they are looking at is that agricultural land does not require a whole lot of costly services on the local level. Farm and forestland also make important contributions to tourism and recreation that are very hard to quantify. Another thing I think incredibly important is the fact that these communities are agricultural and have been agricultural for a long time. It's what the community is all about and while it's hard to quantify some of those arguments they are often the most passionate arguments. Economics and environmental benefits aside these evoke some of the strongest feelings in regards to forest land.
- What are local governments doing to address these challenges? Some are addressing these issues, which I will cover very quickly here: 1.) Local governments are required to complete comprehensive land use plans, which are outlines of the land uses across the locality, and a strategic plan for future development every 5 years. It's a plan for what the community wants including where they want development and other land uses in the future. Some of them can include components that address agricultural land and state that truly productive agricultural, farm, and forestland is a desired land use that the locality wants to see in the community in the future; 2.) Agricultural zoning is used to stabilize that land base and to keep agriculture and to discourage or eliminate any competing land uses in those agricultural zones. Again when I say agriculture I am talking about farm and forest land, which is a primary land use; 3.) Many communities have an active land use assessment program, which is basically a program to tax agricultural, horticultural, forest, and open land at their current use value and not at some speculative future value based on residential development. In other words, trying to tax agricultural, forest and open land, at their current use value and not a fair market value that it could be sold at if it later was turned into residential development; 4.) Agricultural and forestal districts are actually agreements that are done between land owners and local jurisdictions. These require 200 acres of land or more, land owners petition directly to the local community and then they kind of negotiate the benefits they will get for enrolling into these agreements; 5.) A sliding scale property tax regulation is a relatively new technique that I don't think has been used to date. The General Assembly authorized its use in 1999. It is basically an enhanced version of the land use assessment. It provides local governments with even greater tax benefits if land owners get a land use assessment and agree to stay with that land use for up to 20 years. The local will then have a sliding scale and depending on how long you stay in, the tax benefits increase up until the end of that 20 year period.
- **Question: Read Charlton asked "Is that program available to all counties"?** My understanding is that it is authorized for any local govt. up to the local government's discretion. I do not believe, I am trying to think of a good example myself, I believe that the program is generally underused and then purchase of development rights. I will touch on that right now, we are going to spend some time discussing that technique.

- What is the State doing to address these challenges? The Commonwealth is also addressing some of the challenges that I have mentioned. Taking note of similar trends, you know the competition for farmlands and forestland, the loss of land and agricultural businesses, the General Assembly in 2000 and 2001 established what was called the Virginia Agricultural Vitality Program. This was established in the Department of Agriculture and Consumer Services (VDACS) and had really two components. That VDACS would administer the Virginia farm link program which is trying to link up farmers who are exiting agriculture and who do not have a child that will continue the operation, with a farmer who wants to enter the agriculture but are having a hard time finding access to land and businesses. The second piece is establishing the office of Farmland Preservation in VDACS. According to the code of Virginia these are the duties of the Office of Farmland Preservation: 1.) The office is to develop some moral policies and practices for local governments so there are guidelines in place to serve as a model. 2.) Produce criteria for how to certify local programs in the hope that if state funding becomes available these criteria can be used to allocate those funds to local governments. 3.) Develop methods and sources for securing this funding at the State level for purchase and development right programs. 4.) VDACS also provides technical assistance to governments talking about the importance of farmland preservation to the public; and 5.) Administering the Virginia Farm link program.
- The first step that was taken was the establishment of the State Farmland Preservation Task Force. This task force met for a number of years and had a very diverse group of members including farmers, farm organizations, numerous State agencies, conservation groups, the extension agency, and county Purchase of Development Rights Program administrators. They also had established at the outset a series of guidelines that they wanted to put in place in terms of what they wanted to focus on, how they wanted it to work, and they used all the recommendations as a model. The first part that was done in June 2004, establishing the local element of the program or the suggested components of local PDR programs. The second part was the State element which was done in November of 2005 and that version contains all of the information from the first effort.
- PDR programs compensate willing landowners for permanently protecting their property from development. A conservation easement is recorded with the deed and travels with the land. The easements can be designed for numerous conservation purposes. Agriculture easements are designed to keep that land in productive agriculture or forestry. The farmer can continue to farm the property, sell the property, and anything else they have done in the past with the exception of residential development that is counter to the productive agriculture use of the land. These are voluntary programs that involve willing landowners who want to enroll in the program.
- **Question: Dr. Cutler asked about accounting for donated conservation easements in regards to tax credits, etc.** The mechanism of a purchase of development rights program and the donation of a conservation easement, really have very similar structures. In this case the land owner, the financial compensation is actually paid by the jurisdiction. In the case of a donated easement, they in effect do the same thing but they have not been paid for it, or they have been paid a tiny amount. They then would be given a way to calculate that easement, which is considered a charitable gift under IRS rules. They are allowed to take tax deductions at the federal level. Virginia also has a very generous tax credit which can be transferred or sold. The donated benefits for a Virginia landowner are substantial as compared to other States. You might have a situation where a landowner participates in this PDR program and the county assigns a value. The landowner may choose to obtain an appraisal from an independent source. If it is higher, he may claim the higher assessed amount, or rather the difference.
- **Question: Read Charlton asked "Would you have to have an appraisal done"?** Yes, the IRS would require an appraisal; also the state would require it. They will require a separate appraisal by an independent party.

Comment: Bob Conner said I have seen a lot of literature about these programs and as a farmer and a former business person this seems very complicated. There is lots of bureaucracy but it could be quite simple, like 20 bullets. I am really confused. I have property along with my son, and we would like to consider the conservation and wildlife easements, but it is so complicated. You indicate my county, Brunswick County, will have to come forth with some money. Well for the Purchase and Development rights program, when we get to the State element. The State help will be mainly in matching funds to establish local programs. **Will Brunswick County have to put the full amount?** Not the full amount but rather matching funds to the local program. Local government would have to have their own program, have all the requirements in place, and then hopefully apply for state matching funds if they are available. **I won't dwell on this issue very long, but a lot of us here are farmers and when you are not very specific with the farmer on his rights and other rights on his land. Right now it is not clear how the program will operate, who will pay and there needs to be a much clearer explanation of these programs and how they work. You all or whoever is responsible for this program needs to revisit that because before my kids sign on to something, they are going to want to know specifically all the details and it is not clear right now.** The first thing I would say is you are absolutely right. These are perpetual easements. They are a binding agreement so none of this should be entered into lightly. This needs to be looked at as if you are selling the property for another use. It is a very big decision. Most people would have a tax advisor helping out also to help look at the economic difference in donating an easement or selling it through the PDR program. You need to also look at the tax consequences and estate planning consequences for your family. I will talk a little about the State element. We do not have State funding for matching funds right now, so at this stage it's all on the local government. **Deputy Secretary Dickinson said let me see if I can put your mind at ease. The way we have conceived this thing, land use decisions are made at the local level. You do not want someone in Richmond telling you what to do with your land. You probably don't want your local county people telling what to do with your land either. Right now local decisions are going to determine land issues. When a PDR program is set up in a county they are going to identify portions of the county that are important to preserve. Some areas it may be too late. Once these areas are identified the State and the county will to each have to come up with sources of money. The way it is conceived right now, Brunswick County might say, we want to buy the easement on your farm, and the easement in total will cost \$700,000. Brunswick County would then come up with \$350,000, they will send us the documents, and the State will come up with \$350,000 so the landowner receives \$700,000 for these easements. Does that help in terms of clarification? Yes. Kevin said don't confuse this with donated land easements. In fact, there are numerous donation options. You can donate easements to non-profits, to land trusts, and they don't have to be at the county level. There are numerous options to whether you donate an easement or purchase it through one of these programs. They are not in every county.** John Lindsey stated this would be income for farmers for tax assessments. **Deputy Secretary Dickinson stated that there are ways to stretch out these payments to farmers.** Kevin added there are programs called installment purchase agreement that instead of giving you all of the money right now, you can receive the money over time. You get interest generated and at the end of that 20, 25, or 30 years you would receive the lump sum. **Bob Conner replied you then couldn't still sell the farm.** Kevin indicated you could sell the farm. With an installment purchase agreement it is basically a zero coupon bond, a financial agreement and does not change the deed; you are just getting paid a different way. **Deputy Secretary Dickinson said the short answer is yes you can sell it, but the person who buys it will not have any development on it. And that is the same regardless.....** Bob Conner said that sounds too good to be true, if I get \$750,000 and I still use the land and it cannot be developed, then I sell it for a million dollars so I come out pretty good, and that easement is still on there. **and a tax donation.** Bob continued and the new owner has agreed to use the land as farmland, and that is a good thing. I think we are into our comprehensive plan update, and we really need to in my county because of development, have certain areas designated for this purpose or we are down the tubes. **Chairman Poindexter said well you need to have a comprehensive plan. There are words that say that your county's goals and objectives are to preserve farmlands and that would give your board of supervisors legal authority to pass a PDR ordinance.** Kevin mentioned he would cover a couple of those elements and appreciated all the good questions.

- **Question:** Read Charlton asked about tree farms, do you make a distinction between agricultural land and tree farms? You know, I believe that the local government must establish clear criteria. They may decide that they are only focusing on certain areas and uses but those will be local decisions. The State will basically look at your program and determine, does it address

these 8 elements. If you meet those criteria, then we will certify it and cut you a check. Those would be local determinations.

- I want to show you a map here. This is something I just pulled together and I am actually going to look at it with you. This is the status of local PDR programs. As of January 2006, six local PDR programs in Virginia have spent roughly \$26 million in local funds (an additional \$2.19 million in "other funds) and protected roughly 16,000 acres. As of January 2007, there are 14 localities that have established programs and (11 of which have some level of local funds available). In addition, there is 1 other county that has funds available but has not yet established their ordinance. 2 other counties are in the process of developing their local program. At least 5 other counties are interested in developing a program. I would like to show you a map that I have just created and explain the stats.
- A local program is developed with funding available in Albemarle County, Chesapeake (City), Clarke County, Fauquier County, Isle of Wight County, James City County, Northampton County, Rappahannock County, Rockbridge County, Spotsylvania County, and Virginia Beach (City). A local program is developed with no funding available in Frederick County, Loudoun County, and New Kent County. There is not a local program developed but funding is available in Augusta County. Program development is in progress in Culpepper County and Franklin County. Cumberland County, Halifax County, Hanover County, Shenandoah County, and Stafford County are considering the development of programs. This is just a quick assessment of where we are right now in the commonwealth.
- The model document that I handed out contains the components that local governments will need to think about when developing their program. I will go through these briefly :
 - Clearly defined program goals and purposes: Need to be clear about what the program is really trying to achieve. Programs will vary greatly by region and needs or wants of that area. It must be clear about what you want to protect, where it is, and why. Are we talking about preserving active farmland and forestland, or other open spaces? Are we interested in protecting water quality or view-sheds or other benefits? Every acre of available land will probably not be included.
 - Action plan for education/outreach: Need to make sure to reach out to landowners, public officials and non-farming public. Be clear and focus your efforts on the type of properties your local area wants preserved. You need buy in from landowners but also from the local non-farming community. You really want to make sure that officials support and people going to the polls that are not farmers.
 - Adopted PDR ordinance/resolution: The administrative process needs to be; consistent, replicable, transparent, non discriminatory and equitable. In terms of adopting the actual ordinance, be very clear about what the program is. You need to really try to make it fair and clear to understand. So that it is clear to who qualifies and who doesn't.
 - Easement valuation process established: Need to have a clearly defined easement valuation process, this is very important. How much and how are you going to pay me? There are different ways to do this, such as appraisals, etc. Landowner needs to be able to figure out the program and local program needs to know how they will pay these landowners. Easement valuation process is very important.
 - Broader agricultural enhancement strategy established: A PDR works best in concert with other strategies like agricultural zoning, use value taxation, agricultural economic development efforts, farm transition efforts, etc. Some of your counties have your own offices for agriculture. Your county needs to be supportive of this PDR program.

- Deed of easement that reflects program intent: Easement needs to be flexible enough to encourage agriculture use. It needs to describe property, identify holders, delineate restrictions, be perpetual, and have monitoring and enforcement provisions established. Your county needs to be supportive, and should not deny farmers rights, without very good reasons. Please be careful how you define agriculture. It is often difficult to define agriculture. Be flexible when establishing guidelines.
 - A Monitoring program needs to be established: Getting the easement might be the easiest part. You will need to identify monitoring entity, establish monitoring schedule, outline enforcement procedure, etc. Legal enforcement might be needed in the future.
 - Program evaluation mechanism established: Need some mechanism for keeping the program dynamic and to allow for changes based on feedback. Are we achieving our goals? Are there complaints from the farmers?
- **Comment: Dr. Cutler stated you need to find some funding sources. Virginia Beach did a bond issue and also received revenue from Back Bay Wildlife area. Are there other examples?** Kevin stated in Virginia it tends to be some money from the real estate transfer tax, rollback from the land use assessment, and Virginia Beach also has a cell phone tax that they use for some of this funding. Also there is a 1 ½ cent tax added to the property tax. **Bill Dickinson stated this program can be very fragile, fragile to the extent that you have to have public consensus about where the money is coming from. Second it is fragile to the extent it depends on the will of local government. One board of supervisors can say we are going to give this money to this program, but unless you farmers stay on the board of supervisors as the Boards change, you know what can happen.**
 - **Question: Dr. Cutler asked is the main argument for funding PDRs saving tax payers money that otherwise you would spend on steadily increasing urban services.** Kevin said that is how it was sold in Virginia Beach. It varies from place to place what resonates most. Somebody could be looking at just the economics. Some people just like the looks of the farm as they drive to work each day. People have very differing reasons for supporting these programs. **Now we're back to the joke of cows don't go to school and corn don't call the cops.** Kevin replied you can think of a lot of cute little sayings but they actually have been very successful in discouraging new residential development. This is an interesting argument because for many years people might say yes to new residential development because it will bring in tax base money. A couple of years later, county roads need work, bigger schools are necessary, more water, sewer, etc. Which is not to say you do not want new residential development, you should just think about the impacts.
 - **Question: Dr. Cutler asked about responsibility for monitoring for compliance when land is purchased or sold, as far as these easements are concerned?** The local authority is responsible for the monitoring, the State is not responsible. Depending upon how you structure the program it could be the county or the Soil and Water Conservation. Generally the first land owner or someone who buys the land or even a third land owner will need to have the easement explained. A lot of programs will tell you that monitoring is the last thing they think of. **Chairman Poindexter said Franklin County was looking at several different organizations to conduct the monitoring on behalf of the County.**

Comment: Deputy Secretary Dickinson said each of you that are establishing these programs, call Kevin, he is an expert and he will come to your location and help you in any way he can. I want to go back to this topic of broader agricultural enhancement strategy. We have an Agriculture Development Office in VDACS. Some of your counties have your own offices for agriculture.

- What can we do to make the farmer profitable? It may be agri-tourism or new types of crops. Your county needs to be supportive of all that if this program is going to work. For instance if you set up a PDR program and then deny farmers the right to do agri-tourism you are setting your program up to fail. We must be careful of how we define agriculture. Today the field is continuously evolving.
- The State program should support local programs . It will accept and review applications for matching funds, certify local programs as being operational, and disperse state funds to local PDR programs .
- Objectives:
 1. By 2007, Commonwealth shall have the capacity to provide technical assistance to all requesting localities.
 - Fund OFP at \$500,000 per year
 - Develop State PDR Web site
 - Plan and host PDR, Farm Transition, Ag Economic development and other workshops
 - Establish a speakers bureau and PowerPoint presentation
 - Develop technical assistance materials for local governments, elected officials, etc.
 2. By 2007, Commonwealth should make available \$1 million annually in matching funds to each certified local PDR programs
 3. By 2010, 30 additional localities will establish certified PDR programs
 - Obtain \$1 million for the Office of Farmland Preservation to distribute to local governments to assist in developing new PDR programs
 4. By 2020, at least 70 total localities will have adopted and funded certified PDR programs
- In 2006 the General Assembly appropriated funding for the Office of Farmland Preservation (VDACS) and appropriated \$305,000 for FY 06-08. The Coordinator was hired as of January 2007. The General Assembly established a joint subcommittee to study long-term funding for PDRs and 3 meetings held in 2006. Legislation has been introduced in 2007 session to extend this.
- Governor Kaine has proposed \$20 million in 2007 budget amendment for land conservation \$5 million to Office of Farmland Preservation for matching grants to local PDR programs \$13.7 to the Virginia Land Conservation Foundation (VLCF)
- VDACS will be convening State Farmland Preservation Task Force in March to establish specifics of the state matching program
- The Office of Farmland Preservation will work with Farm Bureau to establish Virginia Farm Link program at VDACS.
- Kevin's contact information is (804) 786-1346 and Kevin.Schmidt@vdacs.virginia.gov

Michael Chandler, Professor Emeritus Virginia Tech and President of Chandler Planning; “Transfer of Development Rights”

- Transfer of Development Rights or TDRs, has been a long sought tool for some VA localities and in 2006 the General Assembly passed 15.2-2316.1- 15.2-2316.2. TDRs allow landowners to transfer the right to develop one parcel of land to a different parcel of land, generally within the same jurisdiction. There are two proposed bills this year that would enhance the TDR process. SB869 and HB3033. TDRs are established and must be included in a locality's zoning ordinance. If you are going to get into the business of TDRs you must adjust your zoning ordinances. The parcel of land where the land rights originate is called the Sending Parcel or area. The parcel of land to which the rights are transferred is called the Receiving Parcel or area.
- A fundamental goal or rationale for TDRs is to lessen development pressure in one part of the locality by allowing a greater density of development in another part of the locality. When development rights are transferred from a Sending Parcel, a permanent conservation easement is placed on the land.
- TDRs seem to be viable where large tracts of land remain in farming, forestry, horticultural or open space uses and receiving areas that can accommodate the transferred development density are readily available. Areas must be identified for the sending and receiving parcels and needs to be captured in the comprehensive plan.
- For the TDR process to work and this is gathered from years of data in other states, the receiving area must have the capacity to accept the new development. Typically they are between private landowners and or developers. One of the store window advantages or temptations with TDR is that hey this is something between Mr. Poindexter and Mr. Smith over here and we in Franklin County don't have to get involved. But, that is not totally true in terms of the advertising. It is very difficult to manage a TDR Program and not have some level of local government involved. There is a real challenge in VA. The way we currently have TDR crafted where the government will have to play a substantial role, not so much in oversight or even in mediation but the government will have to be a player at the table.
- **Question: Dr. Cutler asked a question concerning TDRs and the comprehensive plan.** Yes well, you want to make the designation or talk about the potential of agriculture preservation in the comprehensive plan. If you move in the direction of TDR you must have in your zoning ordinance a section in it to capture the process procedure. This is because the way you enable TDR to occur is with that transfer. So the zoning ordinance must have provisions in it for that to occur. **So you identify certain areas to be sending and receiving areas.** Yes, that is one of the essential steps that have to be taken and accomplished before you start the program.
- TDRs, in most instances, are between private landowners and/or developers. It is not mandated by the State but rather it is voluntary. It is very difficult to manage a TDR program without some involvement of local government. The decision to employ TDR is made voluntarily by the property owners involved. A local TDR must be adopted by the local governing body as provided by 15.2 – 2204 (public hearing). That would be when you adopt your comprehensive plan or you make an amendment to your comprehensive plan. As you all know you must hold a public hearing. Similarly, if you adopt TDR then your planning commission and your governing body would make that amendment to your zoning ordinance and the public would be involved with that process.
- If the receiving area is within an incorporated town within a county, the town's governing body must amend its zoning code to designate the receiving area to receive the development rights from the county. This makes sense. Towns are separate yet the citizens are also County residents. Transferring development rights can be an issue. Senator Watkins bill would allow counties and cities to become involved in this process.
- **Question: Dr. Cutler asked “Why do towns need additional development rights.** This is not a commonly utilized tool. Brookings identified only 134 programs across the entire country. Most TDR programs (43) deal with environmental protection, protecting land for environmental purposes. Many

other programs (29) are more for agricultural land preservation. More communities use PDR's. Montgomery County, MD constitutes the great bulk of land involved in TDRs (40000 acres of 100000+ acres nationwide). The way it was sold there is the incentive that if I transfer my development rights to the neighbor in Rockville, he is able to do higher density development and I sell my rights and get a crop if you will. There are normally trade offs in density for these agreements but does not have to be. Colorado, where drinking water supplies are being protected, has a lot of experience with these and exchanges have been 1 to 1.

- TDR, or transfer of development rights, is a concept in which some or all of the rights to develop a parcel of land in one district (the sending district) can be transferred to a parcel of land in a different district (the receiving district). TDR is a tool used to preserve open space, farmland, water resources and other resources in sending areas a locality wishes to limit or curtail development. In a classic TDR system a sending district is identified as is a receiving district. Development rights are assigned to landowners in the sending district. Owners of land in the sending district are not allowed to develop, but instead may sell their development rights to owners of land in the receiving district, who may use the newly acquired development rights to build at higher densities than normally allowed by existing zoning. The TDR systems are intended to maintain designated land in open or non-developed uses and compensate owners of the preserved land for the loss of their right to develop it.
- In 2006, the Virginia General Assembly authorized any Virginia locality to provide for transfer of development rights (15.2-2316). The Virginia statute, as crafted, witnesses many of the characteristics associated with TDR provisions used elsewhere in the country. For example, when development rights are transferred from a sending parcel, a permanent conservation easement must be placed on the land. In addition, the decision to use TDR is voluntary. The Virginia statute does not mandate its use.
- The Virginia TDR statute took effect in 2006. To date, no locality has developed an ordinance permitting the use of TDR
- TDR programs are technically complicated and will require a significant investment of time and local government resources to implement. Key questions in search of answers include: 1.) Which areas should be protected, 2.) What types of transfers should be permitted. 3.) How should development rights be allocated, 4.) Where should development be transferred and at what densities?, and 5.) What mix of incentives should a locality use to encourage landowners to use TDR? VA Statute is broadly written. Agriculture rights can be dedicated to commercial, industrial, or other uses. This is a good thing. On the question of how these rights are allocated. If the market is favorable then it may be advantageous for Charles to sell. It may not be favorable for someone to buy. VA statute does not currently allow for a TDR clearinghouse or bank. This allows for banking the rights until conditions are favorable for purchase. The rights are transferred and held by another entity, usually the local government, for sale when someone is ready to purchase.
- A major challenge associated with TDR involves predicting the likely supply of and demand for development rights in the real estate market. Indeed, the pace of transactions will depend on the private market for development rights.
- Despite not being implemented as yet, ideas are being advanced with the goal of enhancing the potential of TDR as a viable Virginia planning tool. Chief among them is the suggestion that the statute be modified to permit the evolution of a market for the transfer of development rights that is mutually satisfying for sending and receiving property owners. The experience of many localities external to Virginia suggests a "TDR bank" might be an appropriate enhancement. The bank allows development rights to be held in reserve until market prices are favorable for one or both parties interested in the transfer. Senator Watkins bill, as I indicated, his bill SB869, will allow a county and an adjacent city to engage in the practice of TDR both sending and receiving. Delegate Bell has HB 3033, his would create a local clearing house for the conveyance of the development rights. There is nothing in the draft legislation, it just says such other provisions as the locality deems necessary to aid in the implementation of the provisions of this article, which is language from the current statute, including the purchase and/or sale of development rights by the locality in order to create a clearing house for the conveyance of

development rights. The devil is in the details. What that means we do not yet know. The nomenclature clearing house begins to look like a duck, sound like a duck, and maybe it's going to be a duck, maybe it's going to be that bank that will be critical for this whole program.

- Another suggestion is that the TDR statute be modified to allow Virginia general law on vesting to determine when transferred development rights actually vest. The statute's current language involves a series of convoluted and seemingly redundant steps before vesting occurs. A simpler vesting process will enhance TDR's attractiveness as a potential tool of land preservation and targeted development.
- The above elements on enhancement will appear in a forthcoming publication entitled "Managing Growth and Development in Virginia: A Review of Tools Available to Localities". The Virginia Chapter of the American Planning Association intends to distribute the publication in early February, 2007. The authors of the publication are Milton Herd, Marsh Whitt, Michael Chandler, Barbara Jacocks, and Terry Harrington.

TDR Ordinance Content

- Must have a Statement of Intent/Purpose establishing the basis and rationale for the TDR Ordinance is the essential first step. It is important to think of TDR as an ordinance. It has the force of law and must be grounded in the zoning ordinance.
- Definitions. All relevant terms germane to the TDR should be listed and defined. Terms in search of a definition will include the following: Agent, Development Right, Receiving Area, Receiving Property, Sending Area, Sending Property, and Transfer of Development Rights. These are listed in the current law. Senator Bell's bill defines the severance of development rights as the process by which the development rights from a sending property are severed to make the development eligible for transfer to a receiving property(s). This will be important if we are moving in the direction of the TDR bank.

Procedure for Transfer of Development Rights (or the content of your actual ordinance)

- Designate an agent (Planning Director) to administer and enforce the TDR ordinance.
- A TDR application form shall be completed jointly by the owners of the sending property and the owners of the receiving property.
- A processing fee shall be established. There is a processing fee for most services in Virginia. More Localities should make the processing fee adequate to handle expenses but not extravagant. The range is \$100 to say \$15000. The high fees are to recover the costs of the positions needed. rural areas may not be as familiar with these types of fees. If I only have to pay \$100, I might take a chance to get the rezoning. \$15000 and I may not take the risk. So this takes away some of the speculation that goes on.
- The agent within a set period of time following receipt of the TDR application shall determine the number of development rights on the sending property eligible for transfer. This introduces yet another challenge with TDRs. If we say this part of Halifax County has to be a sending area, someone has to go out and make a determination if this land is indeed the right choice to be reserved for agriculture, or some other use. The agent's determination of the number of rights shall be deemed final unless appealed to the Board of Zoning Appeals.
- A transfer of development rights shall be recorded in the land records of the county and shall include:
a.) Legal description of the sending property, b.) Legal description of the receiving property, c.) Language of conveyance, d.) Number of development rights transferred, e.) The consideration received for such transfer.
- Upon the transfer of development rights, an instrument providing for the preservation of the character of the sending property and prohibiting the development of the sending area shall be executed and recorded. Such instrument shall bind the owner of the sending property and such owner's successors in

interest in perpetuity.

- **Question: Read Charlton asked why would you do this rather than a conservation easement?** This is just another option to choose from. Obtaining a conservation easement is a part of the TDR process.
- Development rights transferred to a receiving property shall increase the permitted density or permitted square footage of uses on such receiving property. TDR's will be used more in urban areas, or at least historically that is true. Virginia's law is unique in that it allows looking at increase in square footage in an industrial or commercial zone.
- **Statement: Dr. Cutler said that he understood the sending end but the receiving end left him confused. It seemed the locality was doing what it already had the authority to do by other ways.** Localities have used TDRs even though they are not in the code. However they have to be voluntary. Voluntary density transfers are legal and used in the state of Virginia, in Blacksburg for example. What TDR allows is simplicity rather than piecing parts of the code together and putting on top of it a conservation easement. Why you see TDRs used in more urban areas is that these areas's have already established the fact that they want to increase the density in place where infrastructure is already available. **So owners of urban tracks that are zoned for low density use can enhance the density and value of the property.** Yes, that is the way it worked in Montgomery Co., MD.
- **Question: Mike McEvoy asked how it gets around the issue that a lot of localities are not tough on rezoning.** In many respects when the State Legislators is in session they often come back to us in Local Government and say you have a lot of tools so use what you got. There is nothing in State Statute that requires that you have to grant these requests. The people are not entitled to a rezoning. The State Supreme Court has made this perfectly clear. Rezoning requests can be denied, even though they generally are not.
- **Statement: Chairman Poindexter said this is another tool and you must remember that these are voluntary. There have been transactions similar to this in Franklin Co. This is just another tool in the toolbox.** The TDR Statute in VA requires the Conservation easement. Once the transfer is exercised the conservation easement falls to the ground. Once you transfer that development right then it is gone. The advantage is that you get that money in your back pocket and the easement falling on your land will reduce your tax liability is substantially reduced. Plus you still have your land. Of interest is Mont. Co., MD situation. Those easements are in perpetuity which lawyers tell me is a long long time. There is a challenge now about how long is long. Some of these farms are now encircled by development. People have lost their interest and affection for agriculture. We need to educate and get people interested again. VA's Open Space Land Act is one of the best in the Nation. These tools are for forestland, silviculture, and open lands as well. The value might be that selected localities could champion the idea that some inter-jurisdictional planning and then perhaps zoning occurs. Land development standards could be compared to other along the same corridor such as the Roanoke River Basin and standardized to offer protection and sustain the river basin. That is permissible under VA law.
- **Comment: Dr. Cutler stated here is an urban example Roanoke that could destroy the Farmer's Market. We need to protect the food-shed so that the farms remain and the farmers bring their products to the City Market. We are losing those farms to urban sprawl.** We were asked to do a study in the Hampton Roads PDC area of the potential of a series of farmer/fish markets. We estimated that 7 to 9 markets strategically with the proper mix of commodities and fish located in the southern VA Beach/Chesapeake area would give them more money than any other commodity they were looking at. The Ag office in Halifax County has been very successful at this.
- **Contact Information:** Michael Chandler, 603 Farnham Circle, Richmond, VA 23236, 804 794-6236, 804 794-6257, rmchan@vt.edu

Jim Bowles, Office of Environmental Health Services, Virginia Health Department: Alternative Onsite Sewage Disposal

- All onsite sewage disposal systems are intended to accomplish two things: 1.) Treat the sewage from a home or other building and 2.) Disperse the treated effluent to the environment.
- I'll focus on "alternative systems" this morning, but I want to start with a brief look at conventional systems. One of the issues that we need to deal with is defining what a conventional system is and what an alternative system is. The EPA defines a conventional system as one that consists of a septic tank and subsurface wastewater infiltration system. So essentially we're talking about the typical septic system.
- These are very passive systems. Wastewater flows to the septic tank, where some treatment occurs. Treatment primarily is retention of solids and greases along with some anaerobic digestion. From the tank, the effluent flows into an absorption field where it percolates into the soil. There are two points I'd like to make here: 1.) Treatment in the septic tank is fairly minimal and 2.) The soil in the absorption field is not simply the disposal medium. In a typical septic system, we are counting on the soil to do the majority of the treatment.
- Jim displayed a picture of a cross-section of a septic tank which showed why conventional systems need at least a minimal amount of maintenance. In the tank, the solids in the sewage settle to the bottom, forming the sludge layer and the greases and oils float to the top forming a scum layer. Over time, both of these layers get thicker. If these layers are not periodically removed, grease and sludge will flow out of the tank and clog the absorption system.
- A fairly typical recommendation is to pump the septic tank every 5 years. That is probably more than enough for most systems. Of course, the amount of sludge and scum that accumulates in the tank depends on the number of users and how they use the system. If there are only two people using a system designed for six people, pumping should be needed less often. If a garbage disposal is used or if the owners flush a lot of grease down the drain, then pumping probably is needed more often.
- An alternative to pumping on a set schedule is to check the tank for the accumulation of sludge and scum. He then exhibited a slide showing a septic tank being checked using a hollow tube. In one picture you could see that there was no liquid layer in the tube. That means that the tank is full of sludge and scum, and there is no free liquid left. This tank is way past due for maintenance.
- Before we move on to alternative systems, I'd like to say a bit more about maintenance and management of conventional systems. Obviously, they are pretty simple, and there isn't much that can be done to "tune them up" except to empty the tank when needed. On the other hand, there are a number of ways that owners can contribute to poorly functioning systems. Owners flush things like diapers down toilets, they pour grease and paint down the kitchen sink, they let plumbing leaks go un-repaired and overload the system with water, they plant trees in the drain-field. The point is homeowner behavior is a part management and maintenance of onsite systems.
- The definition of an "alternative system" from EPA says, in essence, that an alternative system is one that isn't a conventional system. As we look at some examples, you may decide that the difference isn't always clear cut. Before we look at some examples, of alternative technologies, let's consider why alternative systems are used.
- Typically, alternative treatment systems provide a higher quality effluent than a septic tank—that is, they remove more pollutants from the waste stream. Because they provide a higher level of treatment, they can often be used where conventional systems can't be used. With alternative treatment systems, we are depending less on the soil to provide treatment, so we need less "good"

soil below the dispersal system in order to protect the environment. Applying cleaner effluent to the soil also increases the life of the absorption system. We are talking about at least 30 years of useful life. Some alternative technologies also provide more reliable dispersal of effluent by forcing the effluent through the entire absorption area, rather than relying on gravity flow. So with some technologies, we also need a smaller disposal area than is required for a conventional system. They are generally of higher cost than a conventional system, probably averaging \$20000 more than a septic system. Most require specialized installers and require more maintenance.

- He presented a slide of a sand filter, which might be considered the grandfather of all alternative treatment technologies, since they've been around forever. Essentially, it is a container with a layer of gravel at the bottom, covered by about three feet of sand. Effluent from the septic tank is distributed over the top and through the sand. The effluent is collected by pipes in the gravel layer, and then flows to the dispersal system or drain-field. The filter part of the name can be a little misleading, because these systems aren't designed to just physically filter the wastewater. In fact, the sand is really is a surface on which microbes grow. These microbes feed on various constituents of the wastewater. As the liquid moves through the sand it draws air into the media, which supports the growth of aerobic bacteria. These filters generally do a very good job of reducing the level of organics and suspended solids in the sewage, as well as removing up to 99% of fecal coliform bacteria. They may also provide some minimal reduction in nitrogen and phosphorous.
- Sand filters typically don't require much maintenance. If they are overloaded, the surface of the sand may clog and cause effluent to pond on top of the filter. Correction requires raking the sand to break up the clogging mat. A typical recommendation is that the filter be checked for "ponding" at least every three or four months.
- A slide illustrating two systems was displayed. One was an installed re-circulating sand filter. It looked just like the sand filter in the previous slide, but there is one difference. After the effluent is collected at the bottom of the sand filter, part of the effluent flows directly to the dispersal system and part is re-circulated back to a pump chamber where it mixes with effluent from the septic tank and flows back through the filter. This modification increases the treatment level, especially for nitrogen. The monitoring and maintenance requirements are similar to those of any other sand filter. Here, there is also a pump that will eventually wear out, just like any other mechanical device. The system also needs to be checked periodically to make sure that the method of splitting the flow is still working properly. Because the media in the filter is primarily a surface for the growth of bacteria and other microbes, manufacturers have come up with "off the shelf" systems using a variety of media. The other picture was of a peat filter. In these systems, the peat will eventually be "used up" and require replacement--typically after 7 to 10 years.
- There is another variety of the system commonly used in Virginia that replaces the sand with fabric, and one that uses foam blocks. They all work essentially the same way, provide similar levels of treatment, and have similar monitoring and maintenance requirements.
- A picture of an aerobic treatment unit was displayed. These are all proprietary systems, and every brand has its own peculiarities and maintenance requirements. In general, though they work by adding air to the sewage in the first compartment, which promotes biological removal of pollutants. This aerated sewage flows into the second compartment where solids settle out. The clarified effluent flows to the dispersal system and the solids are returned to the aeration chamber for additional treatment. These systems can provide excellent quality effluent, but they can also be a bit touchy. A long vacation may disable the system because of a lack of flow and food for the organisms. Homeowner abuse by adding large amounts of grease or chemicals can upset the system. If the system is out of balance, solids from the settling compartment can be discharged to the dispersal system. And, of course, there is a mechanical component that has to be maintained. A typical suggestion is that these systems be inspected quarterly by trained personnel. Testing of effluent quality should be done at least annually.

- A slide of a hybrid system was shown. This is a proprietary system that uses both extended aeration and a surface to support bacterial growth. I don't want to get into details on this particular system, but I'll say that the monitoring and maintenance requirements are similar to the aerobic treatment units, although the system is probably more stable than most ATU's.
- Next an example of an alternative dispersal system, rather than an alternative treatment system was presented. It was a drip dispersal system using the same small diameter tubing that is used for agricultural drip irrigation systems. The tubing is about an inch in diameter and uses very, very small holes. As the name implies, the effluent is forced out of the tubing in drips. Because the flow is so small, no gravel is required. These systems are designed to dose the dispersal system on a timed basis, for example once every four hours, depending on the flow from the house. Drip dispersal systems are usually preceded by some type of alternative treatment system, like a fixed film system or an aerobic treatment system. An obvious potential problem with these systems is clogging in the small diameter tubing. So most of these systems use automatic back-flush cycle to clean the tubing. Some also use a secondary filter. The dispersal system shown was complex and required periodic monitoring to make sure it's functioning properly. Obviously, a typical homeowner shouldn't be messing with the controls for this system. However, the manufacturer of the demonstrated system has a computerized monitoring system that allows individual systems to monitor for things like pump cycle time and tubing pressure from a remote location.
- A slide of an example installed drip system was presented.
- Systems that discharge treated effluent directly to the surface of the ground can be considered alternative dispersal systems. Two methods of doing that are by discharge through a pipe for point discharge or by spraying the effluent over a large area. We don't have time to discuss these in any detail. I threw this slide in to illustrate a point about monitoring onsite sewage systems. Up to now, I've mostly talked about increased monitoring and maintenance as relating to the complexity of the system.
- Discharge systems introduce the factor of risk to the public health. We do require disinfection. With most onsite systems, even if the treatment systems have a problem, the effluent is still being disposed of underground. A failure is usually obvious, just as with a conventional system. For most problems with most alternative systems, the problem can be corrected and the system put back into service.
- With discharge systems, though, the system will continue to discharge waste water even if the treatment isn't functioning properly. And obviously there is more chance of direct human contact with the effluent. Our regulations governing these systems do require routine inspection and testing of the system by licensed wastewater operators.
- All Systems Require Maintenance. Frequency of monitoring and maintenance depends on complexity of system and risk to public health. Some alternative systems require only infrequent monitoring or maintenance. "Management" of onsite systems begins with the homeowner.
- The VDH Strategic Plan states "Improve the performance of decentralized wastewater treatment systems by promoting the concept of continuous management and facilitating upgraded professional standards of practice". Strategies to accomplish this objective are to create an inventory of all onsite systems and to consider regulations requiring additional system management after installation. The big issue is that there are about 30,000 permits issued each year.
- **Question: Dr. Cutler asked "What are the requirements for obtaining a permit?** Typically a person comes in and says that they want a permit to install a septic system, onsite sewage disposal system. Somebody goes out from the health dept. or designated dept. to inspect the property and determine the best choice of system. This will depend upon the water table, topography, soil type, surface water, neighboring wells, etc. Depth of system will need to be decided and percolation area determined. **Does the local government take the initiative to proactively identify suitable and**

unsuitable areas for this type of activity? Typically most localities now in their subdivision agreements require that the developer get approval from the local health Dept. for the sewage disposal system. **So this is not just a single house, but a whole subdivision. Does this speed up the process by doing a whole subdivision at once?** Well actually the Health Dept. always has to give an individual permit. But these developers are also required to present plans showing the sewage disposal system. All the soil work is done up front and there should not be any lots without an approval.

- **Question: Bob Conner said my area is all rural, so everyone has to have a private septic system. I have a problem with the Health Dept. because citizens apply and pay a fee, the official goes out and inspects the lot. Because it has some growth on it or it is raining that day, this inspector goes back and tells the land owner that they need to hire a soil scientist to go out there. By the way, if you are selling this land you must put on the plat where the house will be located. People do not know where they are going to put the house if they are selling a lot. I have a community member who has been trying for 9 months to get a permit for his septic system. People are disturbed with the length of time. Finally some one came from VT and all the houses passed the perk test. It just seems to be a little confusing and the State needs to work out the details. I do hope to see more uniformity in the future, in regards to the permitting process. I would like to discuss this with the local Dept.**
- **Question: Bob Conner asked: Am I to understand that the health dept is going to tell me how often every 5 years or whatever to have my septic system certified? I believe that will be coming along. Who is going to make that decision? What Dept? Who will it be delegated to, you guys? Right now we do not have the personnel to handle all of the monitoring. So, you don't have the personnel who could even do this program now. So we have to pay the piper to come around and check our septic system and pay more money to the State. I have to pay for the system to be put in I should know how to take care of my system. I understand what you are saying but if the system is put in correctly, we should not need an inspection every year. Well, yes and this is one of the things we need to consider. I do think that all of these systems need some sort of maintenance schedule. Can the homeowner do these themselves? Possibly, or does it have to be done by the private sector and how often? Do we need a regulation stating when, who, etc. We need regulations that make sense.**
- **Question: John Feild asked if there had been any consideration to acquiring a permitting process wherein each load that is pumped from a septic system is tracked from cradle to grave by some type of permit or something. The homeowner would have a record that it was pumped, the carrier would have a form showing pickup and delivery, and finally that it gets to the approved facility. Because historically what we have had in our area, are these midnight pirates that pick up the effluent and they do not want to go the 30 miles or so to the approved facility. Instead they go down the road to a launching ramp, into the public waters, or in mountainous areas into sinkholes. Then these dumped loads get into the ground water, water systems, etc. There needs to be a tracking system established to keep up with this type of problem, each load tracked. The answer may already partially be there. The treatment plants have mandatory regulations regarding hauling.**
- **Question: Dr. Cutler said the responsibility of this group is certainly the quality of the water in the Roanoke River, but I would like to ask you as a water quality professional apart from your official duties. If you go to professional meetings do you believe other states have better systems than ours? That we could look at and replicate. To be perfectly frank I think the views I have seen are generally similar.**
- **Question: Chairman Poindexter asked, do you need any more from the legislature for you to initiate this process? Well, at the moment I will say there is a bill currently in the legislature that looks like it might be ok..... Chairman Poindexter said most of the localities in the Roanoke River Basin approve sewage systems in subdivision and housing sewage systems. Who mediates these regulations? The local governments are not in this business very much. We**

need to change this in the Commonwealth of Virginia? Bob Conner said what we do to protect the new homeowner or buyer is that we have them include on the plat that an alternative system is the only thing acceptable. That way we

Dean Gall, DCR

- I will just make a few comments. I hope to get to know a lot of you better. The Dept of Conservation and Recreation is the non point source agency in Va. We primarily work with our Soil and Water Conservation Districts. We have programs for erosion and sediment control, storm-water, and nutrient management. Those are the main functions. We are also part of this initiative to conserve 400,000 acres of land per the Governor's request. This program strives to support that initiative. Whatever is the best program for a landowner to be involved with is the one he will be directed to.
- Some of the money that we have spent in the last few years was for 4 new positions. 2 went to the Peaks of Otter District, Bedford Co. and the other to the Blue Ridge District, Henry, Franklin, and Roanoke Co. These were federally funded trying to get more BMPs on the ground to help with the TMDLs. In the last five years, projects have used \$600,000 in the Blue Ridge District. Also, there are WQIA funds which will go to Blue Ridge, Pittsylvania and Southside over the next 2 years that will be a total of 1.4 million dollars, will be spent in these counties. The Marrowbone dam project in Henry County has been completed and a lot of federal funds were expended. I have mentioned TMDLs, there are a lot in this watershed. Most do not have funding for implementation. We are still working on that and hope to find more funding.
- **Question: Dr. Cutler asked if these were grants.** These are cost share.
- There are 19 localities in this basin with Erosion Control Programs. 8 have been found to be consistent with program protocols and 7 have been found to be in need of some corrective action to meet protocols. The other 4 will come up for review in the next couple years.
- Storm-water management program is 2 years old now so it is up and running. We have one person in this watershed dedicated to the permitting task. 282 permits have been issued with 155 issued in the last calendar year. Training has been held for localities and was attended very well, with only one locality not attending because of a conflict. More training is to be scheduled.
- The nutrient management program as of a year ago all NMR plans will be written phosphorus based. A couple farms in the upper basin have had a hard time meeting this requirement because of inadequate land. In this watershed there are a lot of dairy farms, which fortunately the dairy industry is heavily based in corn silage, and they are not as difficult as some other types of farms.
- I am hoping in my new job, if there is some type of service that DCR can help you with or assist you in programs, please let me know.

Moir Croghan, Assistant Division Director, DCR

- I wanted to mention that Deans role is to supervise our non-point source staff in 2 offices, Clarksville and Dublin. He is also the liaison with local government. He will be working with local governments to improve their comp plan and ordinances so that they effect storm-water management to control pollutants the best they can.
- I was asked to speak a little about the legislation pending now. For the most part we do not have a position on them. Most of the bills are supportive of our agency. There are a handful of bills that we are the sponsor of so we like them. Most of these are conservation bills. HB 1713 for the expansion of projects that can be funded through the VA Land Authority to include land conservation. SB942 establishes a threshold that determines how the unrestricted funds in the Virginia Land Conservation Fund will be expended. SB1115 places the proceeds from sale of the timber and trees taken from (i)

state park lands into the State Park Conservation Resources Fund and (ii) natural area preserves into the Natural Area Preservation Fund. HB 2825 establishes a threshold that determines how the unrestricted funds in the Virginia Land Conservation Fund will be expended. Those are the only ones that came out of the Agency so we support those.

- **Question: Dr. Cutler asked “is federal money available to implement these TMDLs and BMPs or do we need to write a letter to our Federal Congressmen?** There are so many TMDLs that the money required for implementation is extremely large. Yes, there is more money right now than just about ever for funding of these programs, about \$ 33 million. Also, \$ 250 million went to DEQ in the Water Quality Improvement Act for fixing mostly point sources in the Chesapeake Bay.. The emphasis in the short run is to put money on fixing things which are the most easily attacked, which are the point sources. Non-point problems are more numerous but they are also more difficult to fix. The vehicles are the WQIA and the Farm Bill but there is not enough money to do both. Look at the Chesapeake Bay, \$10 billion is to be spent with 90 % of that going for point sources and 10 % for non-point problems. This same ratio applies to the rest of the State. As much as it is needed, these federal funds are large but not near enough for complete funding. But the vehicles are there, there are funds in WQIA and the Farm Bill. Some of this money has been affected by the war. Until the sewage treatment plants in the Bay area have met nutrient requirements, the majority of funds will go toward that. Then as long as the economy is good then funding will probably then be devoted towards the non-point sources. **I guess my point was we need to keep legislators aware of the great need out there.** The point is to remind them that non-point source is a larger problem than point source. There is actually more State money right now than federal. **Mr. Chairman should we address this through a resolution or just punt for now?** Chairman Poindexter said last year we passed a resolution asking for more funds and they were able to secure some money for us. They indicate that they are working to maintain that ratio this year. So I don't see any benefit to doing another year. DCR and the SWCDs can not do any more than they are doing at present.
- Our division of DCR has the storm-water permitting program. Our emphasis is on the small construction sites that the local government worked with. There is now a Federal program on top of it. You heard that there is only one person serving your watershed. It is serious regulatory program that is getting tighter all of the time. Our emphasis is working with the localities and contractors on these storm-water permits. Just want you to know that there are 2 layers of storm-water requirements, there is a local government layer and then there is our layer.
- We are trying to staff the districts and have just hired a number of people. We are trying to get the infrastructure ramped up to get the cost share money out to farmers and get them interested. The market must be ready to take advantage of the money.

Other Business:

Resolution to Support Funding for Preservation of Farm, Forest, and Open Spaces.

A motion was made by Dr. Cutler that the Virginia Roanoke River Basin Advisory Committee supports the establishment of a state fund to match local government purchases of development rights with the preservation of working farm/forest and open space land. The intent of this committee is for this fund to be established in addition to not instead of the current tax credit for the donation of conservation land. The motion was seconded and passed. The final form is below:

January 24, 2007

Resolution encouraging support for strategic increases in funding for land conservation in the 2006-2008 biennial budget including additional appropriations for the Virginia Land Conservation Foundation, the Office of Farmland Preservation for establishment of a state fund to match local government purchases of development rights for the preservation of working farms and forest, and the Virginia Outdoors Foundation. It is the recommendation of this committee that these funds be appropriated in addition to, and not instead of the state tax credit currently offered for the donation of conservation easements in Virginia.

Whereas, people live in and come to the Virginia Roanoke River Basin area to pursue various interests including lifestyle, esthetics, vacation, and recreation; and

Whereas, agriculture, forestry, water quality and supply, natural landscapes, and open spaces have long been essential to the Basin's culture, heritage, economy, and way of life; and

Whereas, over the past decade, Virginia has lost over 60,000 acres a year to development and the USDA estimates that we lose over 20,000 acres of prime farmland each year to development; and

Whereas, the 2006 Virginia Outdoors Survey results indicate there is broad public support for protecting Virginia's natural and open space resources, spending public funds to prevent the loss of exceptional natural areas to development, and using the outright purchase of land from willing sellers as an appropriate tool for conserving open space; and

Whereas, land conservation provides benefits for agriculture and forestry industries, water quality and supply, recreation, wildlife habitat, ecotourism and heritage tourism, and air quality;

Now, therefore, be it resolved, that the Virginia Roanoke River Basin Advisory Committee, meeting in Richmond, Virginia, on January 24, 2007, does hereby support strategic increases in funding for land conservation in the 2006-2008 biennial budget including additional appropriations for the Virginia Land Conservation Foundation, the Office of Farmland Preservation for establishment of a state fund to match local government purchases of development rights for the preservation of working farms and forest, and the Virginia Outdoors Foundation; and

Further, recommends that these funds be established in addition to, and not instead of, the state tax credit currently offered for the donation of conservation easements in Virginia.



By: Charles D. Poindexter
Chairman, Virginia Roanoke River Basin Advisory Committee

Mission of VRRBAC:

- Chairman Poindexter brought up the issue of North Carolina not participating in the Roanoke River Basin dialogue which is frustrating to the group. Bob Conner said that apparently N.C. does not want to meet with us. So we need to take care of the basin in Virginia and not worry about that. He suggested that this group has had many ideas over the years and that we need to get it in a form for the General Assembly to take action on. It is unfortunate that we don't have some agreement on the withdrawals.
- John Lindsey stated that in his work with the Roanoke River Basin Association he had observed from the potential legislative members of the NC group that the hardest pill for them to swallow is the fact that we strongly advocate against inter basin transfer of Roanoke/Staunton River water. They represent people who are for inner basin transfer. This puts them in an awkward position. Can we agree on a position that we object on inner basin transfers in VA. Let North Carolina decide what they want to do once the water gets to them. That would not affect us really. John Feild replied not necessarily so as they are proposing withdrawals upstream that could definitely affect our river basin. I hope that the sense of our Committee that has been developed is not undermined.

- Read Charlton commented that in the Great Lakes Basin a contract between 7 States and 3 Canadian Provinces recently passed. 2 years ago a group attempted to tank up water and sell it somewhere else such as China. By pure accident that they were able to stop it. They formed a regional compact that said you could not transfer fresh water from the Great Lakes. This is the largest generator of fresh water on the planet. That could be our situation on the Staunton River in a number of years.
- John Feild indicated that the point of our Committee was to have dialogue with both States. If our current direction will not work or be fruitful, perhaps we need to revisit the legislation and get a new purpose. We have made substantial progress in developing a broad based understanding of what is going on in the basin.
- Other members expressed some frustration but also praised the accomplishments of the group.
- Jerry Lovelace, Halifax Co. said the people he spoke to and distributed VRRBAC information to in Halifax Co. were highly appreciative. He passed out the annual report to them and 50 to 60 % of the elected officials have been very complimentary of it.
- Chairman Poindexter said that VRRBAC had developed a lot of expertise which can help on issues in the basin. Just because NC has not played ball does not mean that this organization doesn't have a role. Perhaps we do need a modified mission. It was decided that this would be a topic of discussion at the next meeting. Legislative members are encouraged to attend this next meeting so that this issue regarding the future direction of this committee is discussed.

Sub-committee Reports:

Agriculture and Forestry: No report.

Municipal Interests and Permit Holders (MIPH):

John Lindsey said I would like for us to take a few minutes to talk about the WCA protocol for flow release from the SML project to the Staunton River which was discussed at our last meeting. Bill Brush, Greg and I met yesterday with Terry Wagoner and Joe Hassell of DEQ about the proposed protocol. After discussion, DEQ went on record favoring a new protocol. Simply stated that the lake is not the area that it was 40 years ago and that all of the proposals that are put forth should be monitored and evaluated and the best proposal be selected to develop a new protocol.

Rivers: No report.

Water: No report

Lake Interests: No report.

Future Meetings:

The next meeting will be in Danville/Martinsville area near the end of April. Greg will poll for a date.

Adjournment